



ROBERT L. EHRlich, JR.
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401
(410) 974-3901
(TOLL FREE) 1-800-811-8336

TTY USERS CALL VIA MD RELAY

May 21, 2003

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 122 – *Procurement – Debarment – Violations of Law*.

Senate Bill 122 would allow the Board of Public Works (BPW) to debar a person from entering into a contract with the State if, within the preceding five years, the person has been convicted of criminal violations or has been found to have committed civil violations of federal, Maryland or a contiguous jurisdiction's labor, civil rights, or environmental protection laws. Moreover, the bill would allow the BPW to debar a person who has committed multiple violations of any federal, Maryland, or a contiguous jurisdiction's labor, civil rights, or environmental protection laws and been subject to multiple separate and distinct findings of civil liability in Maryland or a contiguous jurisdiction.

Under current law, a person may be debarred from entering into a contract with the State on several grounds, including operating in a manner designed to evade or defeat the purpose of the State Finance and Procurement Article. A person may also be debarred from entering into a contract with the State for any cause the BPW determines to be so serious as to affect the integrity of the procurement process. While the proponents of this legislation allege that its enactment would help contracting agencies identify violators and ensure enforcement of the law, I am not persuaded.

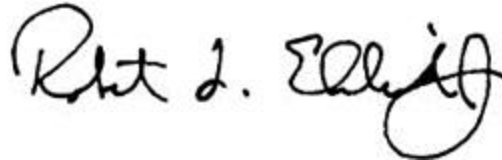
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I believe that the approval of Senate Bill 122 would have a chilling effect on the companies wishing to do business with the State, particularly in light of the fact that there is no distinction made between willful violations and minor violations (such as accidents) that may occur without the knowledge or intent of the contractor. The threat of debarment may cause companies to shy away from State contracts, which, in turn, would have an adverse effect on competition and negatively impact the price of competitively bid procurements. Additionally, the inclusion of contiguous jurisdictions in the civil violations section raises possible equal protection issues. A contractor may violate the law in 46 other states and the District of Columbia and be immune from debarment, but would be denied immunity from debarment if the violation occurred in a state contiguous to Maryland. While a court may find that this provision is rationally related to protecting an interest of the State, it undoubtedly will invite litigation and complicate the procurement process.

Senate Bill 122 does not enhance the Board of Public Works' ability to protect the integrity of the State procurement process, and it complicates the ability of the State to secure efficiently and fairly necessary State contracts. I have pledged to the citizens of Maryland to deliver a streamlined, more efficient government, and I intend to keep that promise.

For the above stated reasons, I have vetoed Senate Bill 122.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Ehrlich, Jr.", with a stylized flourish at the end.

Robert L. Ehrlich, Jr.
Governor